THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24676 OF 2005

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Dt:18.11.2005

Between:

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The Toddy Tappers Co-operative Society.

… Petitioner

and

The Deputy Commissioner of Proh. & Excise and others.

… Respondents

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ORDER:

The petitioner is a Toddy Tappers Cooperative Society. It was accorded a licence to establish a depot and two licences for establishment of toddy shops. On the ground that the toddy samples collected from the depot was found adulterated, the second respondent initiated proceedings under the Andhra Pradesh Prohibion and Excise Act. On finding that the allegation against the petitioner is proved, the second respondent cancelled the licence not only of the depot, but also of the shops. Aggrieved thereby, the petitioner filed W.P.No.2884 of 2005. Initially, this Court granted an order of interim suspension to the extent of cancellation of the licences of the shops. The writ petition was ultimately, disposed of through order, dated 09.08.2005, leaving it open to the petitioner to avail the remedy of appeal before the first respondent. The order of suspension was directed to remain in force for a period of two weeks. The petitioner accordingly availed the remedy of appeal and filed an

application for stay. Through his order, dated 07.11.2005, the first respondent rejected the application for stay. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

Placing reliance upon a Judgment of this Court in ***TODDY CO-OP. SOCIETY v SUPERINTENDENT OF PROH. & EXCISE, KARIMNAGAR***, it is contended on behalf of the petitioner that even assuming that there existed valid grounds for cancellation, the second respondent was not entitled to cancel the licences of the shops without issuing notices. That, however, is a matter which touches the merits of the appeal , which is already pending before the first respondent. This Court granted an interim order in W.P.M.P.No3890 of 2005 and directed that the same to be continued for a period of two weeks and thereby the petitioner was enabled to approach the first respondent with appropriate application. The rejection of the application for stay, particulary, in the background of there being an order of stay granted by this Court from the inception, does not appear to be proper. The first respondent ought to have continued the stay granted by this Court and disposed of the appeal itself.

For the foregoing reasons, the writ petition is disposed of directing that the order dated, 15.01.2005, passed by the second respdondent against the petitioner in so far as it relates to the licences of the shops, shall remain suspended till the first respondent disposes of the appeal. The first respondent shall endeavour to dispose of the appeal, within a period of two months from the date of receipt of a copy of this order.

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18.11.2005

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